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June 24, 2021

Honorable Joan M. Azrack
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Perry v. Half Hollow Hills CSD, et al.
Case No. 20-cv-5656

Dear Judge Azrack:

We are the attorneys for the defendants in the above matter. We write as a follow-up to our previous request for a pre-motion conference for defendants' anticipated motion to dismiss.

By way of background, on April 12, 2021, this office filed a letter consistent with your Honor's Individual Rules requesting a pre-motion conference for defendants' anticipated motion to dismiss. [DE # 17]. When no response to this request was received from plaintiff, on April 23, 2021 your Honor issued an Order directing the plaintiff to either file opposition to defendants' pre-motion conference letter or indicate that he does not want to oppose the letter, but still intends to prosecute the lawsuit. The Order warned plaintiff that failure to respond to the Order could result in the dismissal of the instant action.

On April 26, 2021, the *pro se* plaintiff filed a letter motion seeking appointment of counsel.¹ [DE #18]. On May 3, 2021, your Honor denied plaintiff's request without prejudice with leave to renew once plaintiff filed the appropriate appointment of counsel form, including a financial affidavit. On May 17, 2021, *pro se* plaintiff refiled a motion for leave to proceed *in forma pauperis* and again to appoint counsel. [DE # 19]. On May 21, 2021 the Honorable Court again dismissed plaintiff's motion reiterating its previous holding that *pro se* plaintiff could renew his request when the case was marked ready for trial. [DE # 20].

Following such denial, on May 24, 2021 your Honor directed plaintiff to file a response to defendants' pre-motion conference request letter by June 8, 2021. Instead of responding to that letter, on June 4, 2021, the *pro se* plaintiff filed a motion for reconsideration of the Court's May

¹ This was *pro se* plaintiff's second motion seeking the appointment of counsel, the first being made on December 10, 2020 [DE #5] and denied by this Court on January 28, 2021 with leave to renew when the case is trail ready. [DE #7].

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21, 2021 Order. [DE # 23]. Most recently, on June 23, 2021, your Honor denied said motion for reconsideration.

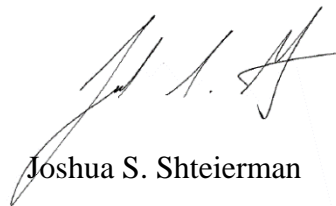
To date, however, plaintiff has still not responded to the Court's Orders of April 23, 2021 and May 24, 2021, in that he has failed to respond to defendants' pre-motion conference request. In light of such failure, it is respectfully submitted that the instant matter should be dismissed as a result of *pro se* plaintiff's willful failure to comply with two distinct Orders of this Court.

In the alternative, it is respectfully requested that your Honor issue an Order directing the *pro se* plaintiff to respond to defendants' pre-motion conference request and that the Honorable Court permit defendants to move forward with its anticipated motion to dismiss.

The Court's attention to this matter is greatly appreciated.

Respectfully Submitted,

The Law Offices of Thomas M. Volz, PLLC.



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CC:

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